

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Derrick O. Martin,

Case No. 3:07CV3655

Plaintiff

v.

ORDER

Dana Corporation,

Defendant

This is a *pro se* employment discrimination case against the plaintiff's former employer and some of its supervisory employees. Pending is a motion under Fed. R. Civ. P. 12(b)(6) by the individual defendants for dismissal of all claims and the corporate defendant for dismissal as to claims asserted under 42 U.S.C. § 1983. [Doc. 20]. Also pending are motions by the plaintiff for discovery [Doc. 16] and setting of a two day jury trial [Doc. 5].

The motion to dismiss the individual defendants is well taken. As defendants point out, supervisory personnel are not individually liable under Title VII of the Civil Rights Acts, 42 U.S.C. § 2000e *et seq.* See, e.g., *Wathen v. General Electric Co.*, 115 F.3d 400, 403-05 (6th Cir. 1997).

Plaintiff's claims under 42 U.S.C. § 1983 are also subject to dismissal as to all defendants because he has not alleged, as required by that section, and cannot allege state action on the part of

a private employer and its employees. *See, e.g., Gottfried v. Med. Planning Servs., Inc.*, 280 F.3d 684, 691-92 (6th Cir. 2002).

Plaintiff's motions for discovery and setting of a jury trial date shall be dismissed without prejudice pending a status/scheduling conference to be scheduled by the Clerk.

It is, therefore,

ORDERED THAT

1. Defendants' motion to dismiss all claims against the individual defendants and claims arising under 42 U.S.C. § 1983 against the corporate defendant [Doc. 20] be, and the same hereby is granted;
2. Plaintiff's motion for discovery [Doc. 16] and to set jury trial date [Doc. 5] are overruled, without prejudice.
3. A status/scheduling conference is scheduled for July 2, 2008 at 11:30 a.m.; plaintiff to attend in person or his complaint will be dismissed for want of prosecution, with prejudice.

So ordered.

s/James G. Carr
James G. Carr
Chief Judge